

**ORDINANCE NO. 020- 2011**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AMENDING CHAPTER SIX, SECTIONS 6-56, 6-201, 6-240, 6-267 AND 6-270 OF THE MONROE COUNTY CODE; CLARIFYING THE JURISDICTION OF THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS AND AMENDING ITS COMPOSITION, RESTRICTING RENEWAL OF LICENSES WHEN FINES ARE UNPAID; SETTING REQUIRED MEETING FREQUENCY; CLARIFYING FINES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the powers, duties and jurisdiction of the Monroe County Contractors Examining Board is set forth in Chapter Six of the Monroe County Code of Ordinances, and

**WHEREAS**, there exists ambiguity between the jurisdiction of the Monroe County Construction Board of Adjustment and Appeals and the Contractors Examining Board, and

**WHEREAS**, various amendments are necessary to clarify such ambiguities, to clarify the penalties that the Contractors Examining Board may assess, to amend the composition of the Board of Adjustment and Appeals, and

**WHEREAS**, various other amendments are necessary to update and clarify the chapter, and to bring the chapter into conformity with Statutes of the State of Florida, and

**WHEREAS**, the Contractor's Examining Board has requested that these revisions be made and be placed before the Board of County Commissioners for approval,

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:**

**Section 1.** The language in Section 6-56 of the Monroe County Code is hereby amended to add a new Section, (a)(4), and amend Section (b)(1) and (b)(2) as follows.

**Sec. 6-56 Construction board of adjustments and appeals.**

(a)

(4) This Board shall not serve as the local construction regulation board. The Contractors Examining Board shall serve as the local construction regulation board. The powers and duties of the Contractors Examining Board are defined in Chapter 6, Division 3 of this Code.

- (b) Membership, appointment, removal, terms and vacancies:
  - (1) The construction board of adjustment and appeals shall consist of ten members.
  - (2) The construction board of adjustment and appeals shall consist of all the members of the contractors examining board, with the exception of the two alternate members as provided for in Section 6-263(6) plus one registered architect and one registered professional engineer appointed by the board of County Commissioners.

**Section 2.** The language in Section 6-201 of the Monroe County Code is hereby amended in Subsections (d)(7) and (e)(3) and to delete subsection (h) in its entirety as follows:

**Sec. 6-201 Disciplinary proceedings.**

- (d) A decision shall be made by the examining board by a majority of the board within five days after the close of the hearing and delivered to the contractor. For licensed contractors, the decision shall be one or more of the following:

\* \* \* \* \*

(7) Finding of violation; Imposition of an administrative fee for all costs incurred by the county building department, county code compliance department and the county attorney's office in investigating and resolving the complaint that gave rise to the disciplinary proceedings.

- (e) A decision shall be made by the contractors examining board by a majority of the board within five days after the close of the hearing and delivered to the contractor. For unlicensed contractors, the decision shall be one or more of the following:

\* \* \* \* \*

(3) Finding of violation; Imposition of an administrative fee for all costs incurred by the county building department, county code compliance department and the county attorney's office in investigating and resolving the complaint that gave rise to the disciplinary proceedings.

\* \* \* \* \*

**Section 3.** The language in Section 6-240 of the Monroe County Code is hereby amended as follows:

**Sec. 6-240 Fees.**

- (a) The board shall recommend to the board of county commissioners reasonable fees to be paid for application, examination, certification and renewal, and record making and recordkeeping. The fees shall be established as follows:

General contractor	\$200.00
Building contractor	150.00
Residential contractor	150.00
Engineering contractor I	200.00
Engineering contractor II	150.00
Engineering contractor III	150.00
Mechanical, plumbing and electrical contractors	150.00
All other contractors, including specialty contractors	150.00
Master (plumbing, electrical and mechanical)	100.00
Journeyman (plumbing, electrical and mechanical)	70.00
Apprentice	30.00
Examination fees	
Business and law exam	100.00
All hour technical exams	155.00

- (b) The renewal fees shall cover two years, and the certificate of competency shall be issued for two years. The renewal fees shall be due on October 1 of each odd-numbered year and shall be delinquent on November 1 of that same year. The penalty for late renewal on or after November 1 of each odd-numbered year, but prior to the expiration of 45 days thereafter, shall be equal to one half of the renewal fee; thereafter the penalty shall be equal to the renewal fee. A license shall not be renewed if there are any unpaid fines or administrative fees including license fees, permit fees, fines and/or administrative fees issued by the Contractor's Examining Board.

\* \* \* \* \*

- (e) Inactive Status shall be requested in writing by a current active license holder on or before October 31 of each odd number year. Inactive status shall only be granted upon the receipt of the written request to be placed on the inactive status and payment of \$75 from the current license holder on or before October 31 of each odd number year.

**Section 4.** The language in Section 6-267(a) of the Monroe County Code is hereby amended to read as follows:

**Sec. 6-267 Meetings.**

- (a) The examining board shall not hold less than four regular meetings each fiscal year.

\* \* \* \* \*

**Section 5.** The language in Section 6-270 (a), (c), (d), (e), (f), (g), (h), (i) and (j) of the Monroe County Code is hereby amended and subsection (a)(5) is hereby added and shall read as follows:

**Sec. 6-270 Powers and duties.**

- (a) The examining board shall be the local construction regulation board, and shall have the following powers:
  - (1) To determine if a license or certificate of competency of any local contractor should be suspended for any violation of this chapter and to fix the length of time for such suspension;
  - (2) To call upon members of the industry to advise and assist it;
  - (3) To determine if a state certified contractor is guilty of fraud or has willfully violated any of the building codes of the county or has, within the past 12 months, been found by the local construction regulation board of any other county or municipality to be guilty of fraud or a willful building code violation that would have been fraud or a building code violation if committed in the county; and
  - (4) To determine if the authority of state certified contractors to obtain a building permit should be revoked, suspended or limited to obtaining permits with specific conditions and to set the terms of suspension or conditions.
  - (5) To determine that a licensee, certificateholder, or registrant licensed under Chapter 455, Chapter 471, Chapter 481 and Chapter 489, has committed a material violation of the Florida building code and failed to correct the violation in a reasonable time. In such case a fine may be imposed in an amount not less than \$500.00 and no more than \$5,000.00 per violation. The violation may be disputed as set forth in Section 553.781 (2)(b) Florida Statutes. For purposes of this section, a material code violation is a violation that exists within a completed building, structure, or facility which may reasonably result, or has

resulted, in physical harm to a person or significant damage to the performance of a building or its systems. Except when the fine is abated as provided in Florida Statutes 553.781 (2)(b), failure to pay the fine within 30 days shall result in a suspension of the licensee's, certificate holders, or registrant's ability to obtain permits within this state until such time as the fine is paid.

\* \* \* \* \*

- (c) A citation for a repeat violation shall require appearance before the Contractors Examining Board. A repeat violation is a violation after the imposition of a fine or other disciplinary action for another violation. A violation shall be considered a repeat violation:
  - (1) Regardless of the chronological relationship of the acts underlying the various disciplinary actions; and
  - (2) Regardless of whether the violations in the present and prior disciplinary actions are of the same or different provisions of this chapter.
  - (3) Repeat violations of unlicensed activity may be referred to the state attorney's office for criminal prosecution by motion of the contractors examining board.
- (d) Any party receiving a monetary citation may appeal to the contractors examining board by filing a notice for appeal with the contractor license coordinator within ten days of a citation.
- (e) The contractors examining board may impose a fine and shall impose an administrative fee pursuant to the provisions of sections 6-201(d)(7) and 6-201(e)(3) or this section for any violations of this chapter upon a finding of violation. Upon a finding that such violation has occurred, the board shall deny the appeal, make a finding of violation and impose a fine in an amount not less than the amount listed in the citation and no more than the amount of the fine authorized under this chapter and shall assess an administrative fee. The board, at its discretion, may reduce the amount of the fine or civil penalty but not the administrative fee upon a finding of mitigating circumstances.
- (f) The act for which the citation is issued shall be ceased immediately upon receipt of the citation. The person charged with the violation in a monetary citation shall correct the violation and pay the fine in the manner indicated on the citation unless an appeal is filed by the person charged.

- (g) If the fine is not paid within the time period required on the citation or ordered by the board upon appeal, the board's secretary shall cause a notice of lien to be filed in the official records of the county. The lien shall run against any real or personal property the violator may own. The lien may be foreclosed in accordance with Florida Statutes.
- (h) Upon any final judgment foreclosing such lien, the court shall award to the County all costs as a result of this violation, including investigation costs, filing fees, court costs, and reasonable attorney's fees.
- (i) In addition to or in lieu of any other remedies provided in this section, the County may seek the imposition of injunctive relief and/or a civil penalty through the circuit court for any violation. The civil penalty shall be no less than \$500.00 and no more than \$5,000.00 for each offense. The Court may award to the County all costs as a result of this violation, including investigation costs, filing fees, court costs, and reasonable attorney's fees.
- (j) This article constitutes the exclusive statement of the board's authority and jurisdiction, and does not confer any powers not specifically granted.

**Section 6. Severability.**

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 7. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

**Section 8. Inclusion in the Monroe County Code.**

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an amendment thereto.

**Section 9. Effective Date.**

This ordinance shall be filed with the Department of State as provided in §125.66(2), Florida Statutes and shall be effective as provided by law.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 19<sup>th</sup> day of October, 2011.

Mayor Heather Carruthers	<u>Yes</u>
Mayor <i>pro tem</i> David Rice	<u>Yes</u>
Commissioner Kim Wigington	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By   
Mayor Heather Carruthers

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

By   
Deputy Clerk

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
LISA GRANGER  
ASSISTANT COUNTY ATTORNEY  
Date 11/2/11

FILED FOR RECORD

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County Clerk's Office  
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